

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

PASSED BY THE

## THIRTY-FIRST LEGISLATURE

OF THE

## STATE OF MAINE,

A. D. 1852.

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Published by the Secretary of State, agreeably to resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

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**Augusta:**  
WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1852.

## GOVERNOR HUBBARD'S MESSAGES.

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*Gentlemen of the senate and house of representatives :*

I herewith transmit to you the report of the agent appointed by the executive under resolve of the present legislature "making an appropriation for the repairs of the state prison."

I also transmit to you a communication from Alexander Vattemare agent of this state for international exchanges. It appears from this communication that he has received no compensation for several years for the valuable services he has rendered the state in his capacity of agent.

JOHN HUBBARD.

COUNCIL CHAMBER, }  
JANUARY 21, 1852. }

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*Gentlemen of the senate and house of representatives :*

I herewith transmit to you a communication from Charles Hoeck, professor and principal librarian of the University at Gottengen, accompanied also by a letter from Francis I. Childs professor in Harvard College, upon the subject of literary exchanges with the University of Gottengen.

It becomes also my duty to inform you that a vacancy exists in the office of major general of the ninth division of the militia of Maine, caused by the resignation of major general Samuel F. Hersey.

JOHN HUBBARD.

COUNCIL CHAMBER, }  
JAN'Y 28, 1852. }

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*Gentlemen of the senate and house of representatives :*

I herewith transmit to you certain resolves of the legislature of Alabama relating to the construction of a ship canal across the cape of Florida.

JOHN HUBBARD.

COUNCIL CHAMBER, }  
FEB. 20, 1852. }

*Gentlemen of the house of representatives :*

IN compliance with your order of the 14th inst., calling for certain information relating to the Massachusetts reform school at Westborough, I take pleasure in communicating the following :—

It will be seen that the last question is answered only so far as relates to counties. Should more minute information upon that point be deemed necessary, it can be obtained only by having recourse to the books of the institution, at Westborough.

FIRST. From the commencement of the undertaking down to the final report of the commissioners in February, 1849, the appropriations, exclusive of the cost of farm, which was presented by Mr. T. Lyman, were . . . . . \$86,000

As follows:—Resolve of April 10, 1844,	\$10,000
“ April 9, 1847,	35,000
“ “ “	20,000
“ April 1, 1848,	21,000
“ April 25, 1848,	10,000
“ “ “	8,000

And the commissioners report that they had exceeded the appropriations by the amount of \$6,000.

SECOND. Three hundred.

THIRD. In the year 1851, the average number was 309. A committee of the legislature report the accommodations as altogether inadequate, and a large number of youth then in prison by reason of it.

FOURTH. All the expenditures heretofore made are so mixed up with ordinary expenses and erection of additional buildings, improvements upon the farm, procuring water, &c., that I have not been able to find what would be considered ordinary expenses.

The appropriation for all purposes in 1851, was \$22,000.

FIFTH. Any crime punishable by imprisonment, other than imprisonment for life.

SIXTH. As the law now is, under sixteen years.

SEVENTH. No means of showing except so far as relates to counties. During the year 1850, the commitments were as follows, viz :

Barnstable, . . . . .	none.
Bristol, . . . . .	14
Berkshire, . . . . .	8
Essex, . . . . .	26
Hampden, . . . . .	12
Middlesex, . . . . .	20
Nantucket, . . . . .	1
Norfolk, . . . . .	6
Suffolk, . . . . .	12
Worcester, . . . . .	12
Previous to 1850—from	
Franklin, . . . . .	2
Hampshire, . . . . .	6
Plymouth, . . . . .	4

And the whole number received prior to 1850—334.

Without having the particular information called for, it may be presumed that a large portion of those sent to the institution at Westborough, are from the large towns and cities. And this is equally true in regard to all criminal prosecutions.

P. S. In addition to the appropriations made by the legislature of Massachusetts, the state reform school at Westborough has received by donation and devise from the late Mr. Theodore Lyman, the sum of seventy thousand dollars.

JOHN HUBBARD.

COUNCIL CHAMBER, }  
FEB. 25, 1852. }

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*Gentlemen of the senate and house of representatives :*

John B. Marrow, major general of the sixth division of the militia of this state, having resigned his office and having been regularly discharged, a vacancy exists in that office.

JOHN HUBBARD.

COUNCIL CHAMBER, }  
FEB. 26, 1852. }

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*Gentlemen of the house of representatives :*

THE information called for in your order, of the twenty-fourth of January last, respecting the Penobscot and Passamaquoddy tribe of Indians, not being wholly within the archives of the state, has forbidden that promptness of response on my part, which should ever characterize communications between the several departments of government.

The law requires the Indian agents to report annually only upon their financial transactions with the tribes, and they have heretofore confined themselves in their reports, strictly within such limit, hence information concerning schools and population must be sought elsewhere than in the state records.

Although, since my accession to office, I had not been remiss in collecting facts and information connected with schools, with the census and with all matters involving the prosperity and welfare of the Indians, still much was wanting to make out that minute detail which your order seemed to call for, and which considerate and useful legislation, in their behalf, would seem to require.

I am far from flattering myself that the demands of the case will have been fully met in this communication ; such information however as I have been able to obtain is freely placed before you in the hope

that it may stimulate to such measures of legislation as shall lead to a more thorough knowledge of the condition of this interesting but unfortunate class of our fellow beings and to the advancement of their civilization and happiness.

In this connection may I suggest the propriety of so amending the law upon the subject as to require the Indian agents, in addition to financial concerns, to embrace in their reports the census of the respective tribes, statistics of schools and progress of education, statistics of agricultural products and laborers, and of products and of employment generally.

The Indians of our state are in a state of transition from the hunter's to agricultural, from savage to civilized life. Their forest game is so far exhausted as to afford them but partial employment, and a scanty and precarious reward for their toil and supply for their necessities. A part of them at some seasons of the year eke out a miserable existence by leading a wandering gipsy like life amongst our white population, supplying them with baskets and other articles of Indian ingenuity.

The two tribes, especially the Penobscot, have abundance of land and to spare, of the first quality in the state, to give to every man, woman and child of them an ample farm for present support, and inheritance for their offspring.

Much attention is being paid under our present wholesome law upon the subject by the faithful agent of the Penobscot tribe to induce them to agricultural pursuits; and laudable advancement is being made by the Indians in agricultural skill and productions.

The Passamaquoddies are not so favorably advanced in this respect, owing perhaps in part to the inferior quality of their lands, but more, it is apprehended, to the want of a farmer employed by the state, (as is done in the case of the Penobscot tribe) to stimulate them to agricultural pursuits, to instruct them in its arts and make profitable their labor. The fostering care of the state should be still further extended to induce these semi-savage beings to cultivate the soil and adopt the modes of living and the habits of civilized life.

It must be obvious to every reflecting mind, that no great progress can be made by any people in education, and in the intellectual and moral culture, pertaining to civilized man, in advance of agricultural improvement and a knowledge of the common and necessary mechanical arts.

The history of the world shows us that these are necessarily the advance guard of any degree of useful and permanent civilization. No people ever has or can arrive to any considerable degree of mental culture, till they shall have supplied their physical wants and placed themselves in a condition of comparative abundance and ease. While physical demands press upon us with the impelling force of instinct, it is in vain that we would direct attention to intellectual and spiritual culture—to the interest of immortality.

The cravings of hunger must be appeased, the body must be protected from the pelting storm and the chilling blast, passions and instincts must be gratified, parental solicitude and parental affection must find means wherewith to supply and indulge their objects, ere attention and labor can be bestowed upon the cultivation of the mind.

The first advances then towards cultivating the mind, the first step in *educating*, must be made by rendering mental effort necessary in the practice of those efforts of industry which tend to supply our physical wants, and to the improvement of our social condition.

Of all occupations, agriculture unquestionably stands foremost in its tendency to meet this requirement.

The Indians must be encouraged and stimulated to this pursuit, in advance of any successful attempt at educating and civilizing them. This, if effected at all, must be effected by additional inducements held forth to them by the state, and perhaps by additional pecuniary aid. The agent of the Penobscot tribe writes me that he is of the opinion that the fund is not sufficient this year to carry on a school, to support the *poor* and to continue their farming operations; and I agree with him entirely, that, if the one or the other must be neglected for want of means, it had better be the school.

The Penobscot tribe is better provided with means than the Passamaquoddy. The population of the two is about the same, consisting as will be seen by the census herewith presented, of rising four hundred souls, for each tribe. The resources of the Penobscot tribe consist in the Indian fund of fifty-eight thousand, three hundred fifty-six dollars and forty-nine cents, held in trust for them in the state treasury, the interest of which is annually paid to them—in fifteen hundred dollars annually paid them under treaty stipulations—in bounties paid upon agricultural products—and in occasional special appropriations by the legislature for particular objects, together with the proceeds of the sales of grass and shore privileges on their islands up and down the river.

The Passamaquoddies have only for resources, stumpage money for timber sold from their own township limited by law to one thousand dollars to be sold annually—bounties upon agricultural products—and special appropriations of the same character as those for the Penobscot. The results of these resources and their application will be seen in the sequel of this communication.

Though laudably interested in agricultural pursuits, and with a degree of success that has materially improved their condition, the Indians have but taken the initiatory step towards that state of *general* interest and perfection in their pursuits, which must be attained in order to place them upon the stand of a civilized and prosperous community. The force of habit, traditionary pride and the example of their elders, the excitements of the chase and the allurements of vicious idleness, but above all the want of capital and the means and knowledge of agriculture, have thus far proved obstacles too powerful to be

overcome by the demands of hunger and nakedness, and to permit their native slothfulness to be stimulated to the degree of industry necessary to supply their pressing wants.

The Indians of both tribes, notwithstanding their resources, are to a large extent, in a condition bordering upon pauperism, and they must continue so until their habits shall have been changed and the application of their labor differently directed.

In addition to the above obstacles, in the way of improvement, unfortunate feuds have existed in the respective tribes, parties have been formed, discord and in some instances bloodshed have arisen, the parties have been separated and scattered abroad. These difficulties, so far as the Penobscot tribe is concerned, were immediately on my accession to office, settled by treaty between the parties and the state, sanctioned and solemnized by the executive authority of the state. Since that the Penobscots have lived in peace and harmony. A similar procedure has been recently adopted and perfected with the Passamaquoddies, and it is confidently hoped the results may be the same.

With such difficulties in the way it cannot be surprising that but little progress has been made with them in the establishment of schools and the advancement of education.

In eighteen hundred and thirty-eight, thirty-nine and forty, a school was kept among the Penobscot Indians by their priest, under the direction of the governor and council, continuing six months in each of the above years. The number of scholars in attendance was about twenty-five, some of them twenty years of age and upwards, with what educational results I am not informed.

From the last mentioned period to eighteen hundred and fifty no school was kept.

In eighteen hundred and fifty a convenient school house was fitted up by the present agent and a school kept by a male teacher for six weeks—attendance about twenty-five. In eighteen hundred and fifty-one a female school consisting of some fifteen to twenty scholars was kept in the same tribe during nine weeks. No school is now or has since been in operation in this tribe for want of means—though the Indians themselves are anxiously desirous of one.

A school was established in the Passamaquoddy tribe in eighteen hundred and twenty-three and kept up, as I am informed, for the five or six following years, with a good degree of success.

Our legislature of eighteen hundred and twenty-three appropriated one hundred and fifty dollars for this purpose—in eighteen hundred and twenty-six, four hundred and ninety-five dollars, and it is believed that congress about the same time, made similar appropriations for the same object. Since that, there has been no school amongst them. They have no school house. The agents of both tribes are desirous of promoting the interests of the Indians in *education*, as well as in *all other respects*.

Every motive of philanthropy, of humanity, of sympathy for a



noble, but fallen and down-trodden race, all the inducements of state pride, of indebtedness to the Indians for sacrifices made to us, for wrongs received at our hands, should lead us to a liberal course of legislation, and to generous appropriations to themwards.

JOHN HUBBARD.

COUNCIL CHAMBER,  
Augusta, March 11, 1852. }

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*Gentlemen of the house of representatives :*

IN compliance with your order of the 19th inst., requesting information respecting pay &c., of commissioners upon the reform school and of the insane hospital, I herewith submit the following, which embraces the whole subject so far as we have acted upon it in relation to the reform school.

The commissioners upon the insane hospital having been appointed by the legislature will doubtless present their account for services to the legislature. They have presented none here, nor is it expected or by us thought proper they should do so.

JOHN HUBBARD.

COUNCIL CHAMBER,  
MARCH 20, 1852. }

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*Gentlemen of the senate :*

I deem it my duty to return to you, together with my objections to them, the resolves passed by you on the 22d inst., entitled "Resolves relating to the public lands." The deep interest, present and prospective, Maine has in the public lands, need not again be urged upon your attention. That interest is two-fold, the timber and the settling interest. The former, though not to be compared to the latter, in its bearing upon the future growth of the state in population, wealth, and prosperity, is nevertheless of vital importance to the present application of our industrial energies, and to our financial resources.

The proceeds of the sales of our timber lands, are the means relied upon, exclusively, for the extinguishment of the state debt. Such is the condition of that debt, (payable in annual instalments) that the sale of these lands cannot be for any considerable length of time suspended, without inducing the necessity of resorting to a state tax. The sale of the most valuable portion of them, indeed almost the only ones that have a cash value, the undivided lands, has already, by the action of Massachusetts, been arrested for about a year.

In addition to this she had, for a series of years preceding, in viola-

tion of her compact with us of 1832, pursued a policy in relation to her lands here, extremely prejudicial to our pecuniary interests in the sale of timber, as well as to our settling prospects. It is unnecessary for me here to enter into a specific detail of wrongs received at her hands in these respects.

This subject was briefly, but somewhat pointedly, introduced to your attention, in my message at the commencement of your summer session, and it has been more fully and clearly brought to your knowledge in the recent report of the land agent. The public lands, and the abuses practiced upon us by Massachusetts in relation to them, have been a subject of absorbing interest in my mind ever since my accession to office—one upon which I have bestowed not a little thought and labor. Aided by our able and faithful land agent, I had carefully considered and matured the mode of action most likely, in my judgment, to procure from Massachusetts the redress of grievances complained of—to protect our rights in future, and to secure to us all the benefits to which we are justly entitled in the premises.

I had urged upon the other departments of the legislature, through such channels and by such means as might, by me, be properly resorted to, the necessity of prompt and decisive action, at an early period of the session, upon the subject of our complaints against Massachusetts, that we might have time, deliberately and maturely, to arrange and settle in a permanent and satisfactory manner, the multifarious important questions involved in them. Then, as now, I felt entire confidence that, with reasonable time, should the legislature see fit to entrust me with the requisite authority, these difficulties could be equitably adjusted with Massachusetts. Recent correspondence with some of her officials has satisfied me, that on her part, there is a disposition to yield to the justness of our complaints; but at the same time, that if driven to it in protection of her own interests, she will be inclined to pursue measures extremely prejudicial to ours.

For reasons unknown to me, action in the matter has been delayed until this late period of the session; and even now, the action taken is not, in my opinion, calculated to secure the object intended, but must, on the contrary, most certainly fall short of its aim.

I might, in the first place, take exceptions to the preamble, as only partially covering the ground, if, as is to be presumed, it be intended to embrace the whole subject of our complaints against Massachusetts, and to be taken as the basis upon which the commissioners are to predicate their action. It will be seen, by careful perusal, that it substantially refers only to abuses practiced against our settling prospects and interests, leaving out of sight those which concern the sales of timber and timber lands.

It is true this cannot be considered a fatal objection to the resolves, perhaps not a very formidable one; (because the whole subject matter has been set forth publicly, as above stated); still may not Massachusetts claim that this, being the only authoritative statement of griev-

ances, shall constitute the only basis of action on the part of her commissioners. I know from recent conversation with one of her officials that she will be disposed thus to consider it. But the second resolve does in my opinion, contain a provision fatal to all reasonable prospects of success.

In this it is provided that "the commissioners make a report of their doings, to the legislature, on or before the seventh day of April next, and that unless some arrangement, such as is contemplated by the foregoing resolve, be by them perfected and adopted by the legislatures of Massachusetts and Maine respectively, at their present sessions, then &c."—thus giving but two weeks for communicating our resolves to the authorities of Massachusetts—for the action of her legislature in appointing a similar commission to meet ours, if they see fit to do it—then returning notice to us of their readiness to meet us—for notice to our commissioners of the time and place of meeting—for time necessarily occupied in traveling to and from—and for the consideration and settlement of the numerous and weighty questions of practical detail connected with the negotiation, involving as they do, legal principles of the highest import as applicable to compacts, and to the rights of sovereignty over the soil—and then a report must be drawn up and presented to your body. All this is to be done in one fortnight! Surely this is asking more than is within the ordinary compass of human effort to accomplish.

Desirous as I am to effect the objects proposed in these resolves— anxious as I am to promote the best interests of the state in this matter—seeing also clearly the difficulties and ill-blood that must grow up between the two states, in pursuing diverse interests by cross purposes, I am unwilling to trust to these resolves the accomplishment of results so dear to my heart.

I am unwilling to subject the state to fruitless expenditure—to place her in the attitude of pursuing an end that all reasonable calculation must foresee cannot be attained by the means adopted for the purpose. I would not proffer to a *sister state* a negotiation, which, from the restrictions surrounding it, and the conditions coupled with it, must to her wear the appearance of the proposition itself having been on our part delusive. Finally, should the commissioners, by possibility, be successful, in accomplishing the duties assigned to them, within the time allotted, the whole subject matter of their action, involving interests second to none in their importance to the state, must be deliberated upon, and approved by you, at a period of the session, when the weariness and crowded labors of a long and closing term, will but illy prepare the mind for calm reflection and wise decision.

JOHN HUBBARD.

COUNCIL CHAMBER, }  
MARCH 24, 1852. }

*Gentlemen of the house of representatives :*

AGREEABLY to your order of the 25th ult., I herewith submit the following—

I have not yet been able to procure the “plans of the building,” for presentation to you ; but am assured they will be shortly at hand.

JOHN HUBBARD.

COUNCIL CHAMBER, }  
APRIL 1, 1852. }